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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/805,922

03/22/2004

Nicholas E. Ulion

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EXAMINER

PADGETT, MARIANNE L

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

08/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/805,922</p>	<p>Applicant(s) ULION ET AL.</p>	
	<p>Examiner MARIANNE L. PADGETT</p>	<p>Art Unit 1792</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 July 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 28 July 2008. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☒ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: 26-44.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☒ Other: See Continuation Sheet.

/Marianne L. Padgett/
Primary Examiner, Art Unit 1792

Continuation of 3. NOTE:

The proposed amendment creates new issues:

- (1) in independent claim 26, the scope of barrier material deposited on top of the porous network is changed from the possibility of one or multiple layers to only one layer of ceramic material (similar change in dependent claim 44), with a new purpose required for the now claimed "final layer" of claim 26, as being intended to promote corrosion resistance;
- (2) amendments to claims 32 & 41 broaden the scope of the ceramic material in the claim target to encompass all ceramic material of all forms, instead of only "solidified ceramic material", thus changing the new matter issue (applicant may wish to note that "a target", "a molybdenum disk" & "a ceramic material" in the dependent claims have no necessary relationship to "a source... matrix material" & "a source... fugitive material" as written);
- (3) amendments to claims 34 & 43 create a new issue with respect to the final rejection in that the claimed percentage now has no basis for calculation, i.e. is indefinite;
- (4) new claim 45 is directed to specific materials required for the final layer, which have not previously been claimed thus are new issues in the claims, were specially note that while yttrium stabilize zirconia is disclosed in paragraph [0023], as a final layer coating material, no support has been cited by applicants for the new claim of alumina used therefore.

With respect to amendments in claims 26 & 44, while the scope has been changed, the issue of new matter is still present, since the requirement of the final layer being deposited onto a layer that already contains the porous network, as opposed to deposited on the layer containing the fugitive material, which will become the porous network, was not found to be & has not been shown to be properly supported.

Continuation of 5. Applicant's reply has overcome the following rejection(s):

While the amendments of claims 34 & 43 remove the previous problem of new matter or unclear support, it creates a problem of indefinite nomenclature, due to the means for calculation of the percentage not being defined.

Continuation of 11. does NOT place the application in condition for allowance because:

With respect to the new matter issue, applicants cite support as coming from original claims 1 & 12, however the claim of "the additional step" in the dependent claim 12 does not provide any temporal limitation as to when that additional step is made. Furthermore, as the reference in dependent claim 12 is to deposition of a TBC mixture substantially free of any fugitive material, it is consistent with the disclosure in [0020], which is depositing layers with & without fugitive material, all before the post-treatment heating that creates the porosity. As previously discussed by the examiner, the disclosure cited by applicants in paragraph [0023] does not provide for the initial and final coatings to be made after the creation of the porosity, as it would be rather impossible for the initial ones & there is no suggestion that the final application of the dense material is made at a time separate from when the sequence of rest of the coatings for the barrier layer are deposited, especially in view of the disclosures in the preceding paragraphs, which clearly discuss all the depositions as being done before the post-treatment heating, thus applicant's arguments are not convincing with respect to this new matter issue. With respect to claims 31 & 41, while the proposed amendment would remove the new matter issue with respect to a solidified ceramic material in the provided target, the class of all ceramic materials is not commensurate scope with the teaching of the specification's configuration, which teaches particulate material around the disk.

With respect to the art rejections, the new issues & changes in scope of the proposed amendments require further consideration as to their effects on the application of cited prior art, as well as requiring further search for new material such as alumina.

Continuation of 13. Other:

The examiner notes that applicants say (page 8 of response, first page remarks) claim 27 has been amended to correct grammar (corrects objection of section 3 of 4/30/08 action), however note that claim 36 that has the identical language, has not been so corrected (sorry, missed including in objection). Note in claim 27 that the "a ceramic material", which is selected from the group of all zirconium based ceramics, of all ceramic carbides, all ceramic nitrides & all ceramic silicides, has not actually been given any formal relationship to the independent claims "a thermal barrier coating matrix material".